

**Legal Writing Workshop**

**Presented by**  
**Jacob R. Lines**  
 Pima County Attorney's Office  
**Jeff Sparks**  
 Attorney General's Office

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**Who is the most important  
writer in Arizona?**

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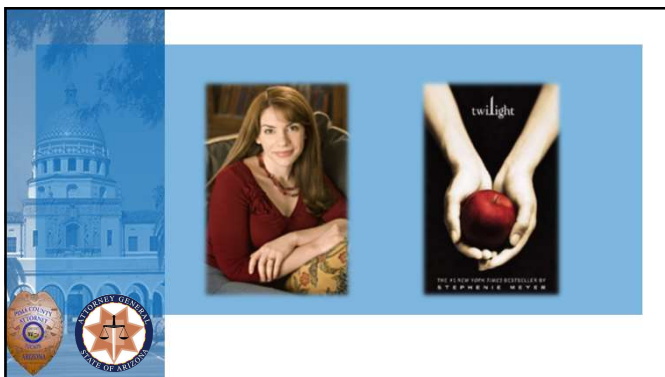
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twilight

THE GOLDEN-FOUR FABLES REWRITTEN BY STEPHENIE MEYER

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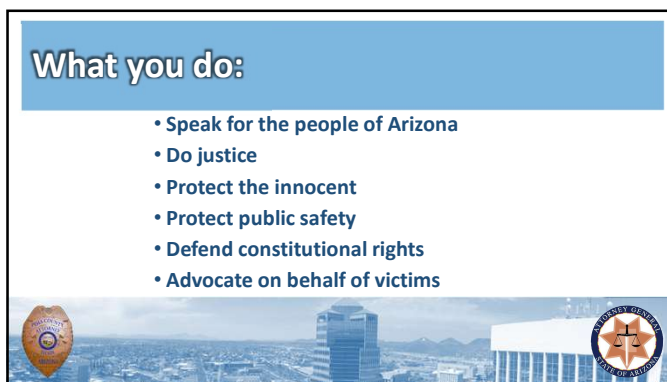
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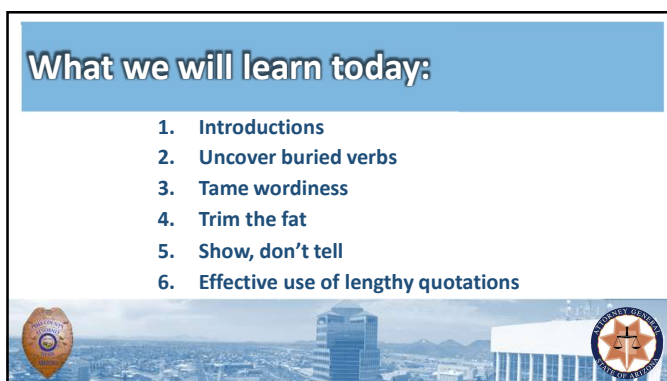
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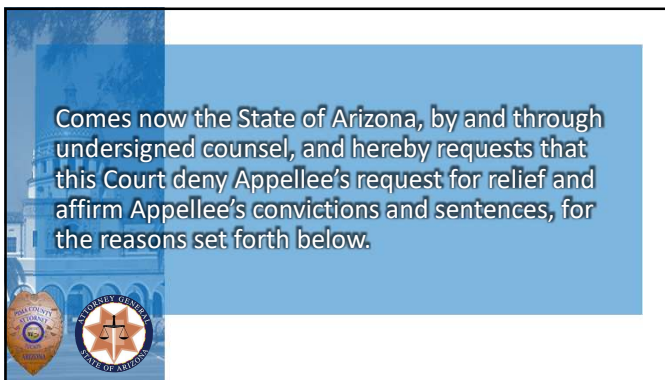
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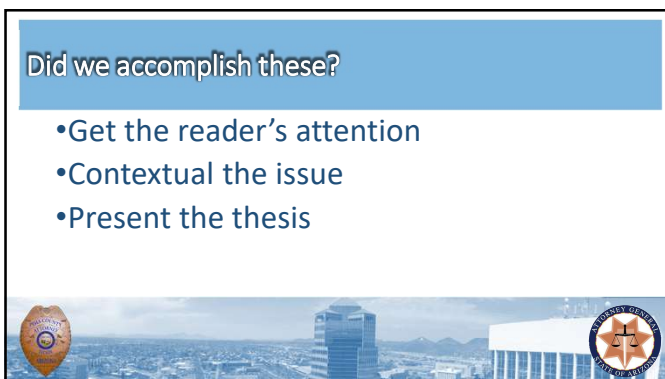
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The State requests that this Court affirm Appellee's two convictions of second degree burglary. As explained below, the trial court did not abuse its discretion when it denied Appellee's motion to sever the charges because evidence of both of Appellee's burglaries would have been cross-admissible in separate trials to prove plan and identity.



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### 1) Write an effective introduction:

The Appellant, Mr. White, was convicted of burglarizing a home. The evidence showed that he entered an unlocked back door during the mid-morning hours and took electronics, DVDs, and jewelry. The State also introduced evidence at trial that he had been convicted of two previous burglaries in which he entered an unlocked back door during the morning and took electronics and jewelry. On appeal, White argues that the trial court erred by admitting evidence of the two burglary convictions under Rule 404(b) to prove plan and identity. Write an introduction that creates a container for the content of your argument.



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### Possible Rewrite:

White argues that the trial court abused its discretion when it admitted evidence of his prior burglaries under Rule 404(b). The facts of those burglaries, however, were almost identical to the facts in this burglary and thus proved plan and identity. Because of this, the trial court properly admitted the evidence under Rule 404(b) of the Rules of Evidence.



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### Uncover buried verbs

Buried verbs are also called nominalizations – turning verbs into nouns.

- The parties **reached an agreement** on the jury instructions.
- The police officers **conducted an investigation** of the crime scene.



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## From Arizona cases

After Ms. McGill's death, her estate brought an action against Doctor Beach, ComCare, and Doctor Tran.

After Ms. McGill's death, her estate **sued** Doctor Beach, ComCare, and Doctor Tran.



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## From Arizona cases

If his records had been in conformity with the Trust Account Guidelines, this litigation may not have been necessary.

If his records had **conformed** with the Trust Account Guidelines, this litigation may not have been necessary.



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## Unbury the verbs!

Buried verb	Good verb
Offer testimony	<b>Testify</b>
Conduct an investigation	<b>Investigate</b>
Have knowledge of	<b>Know</b>
Give notice of	<b>Notify</b>
Make an arrest	<b>Arrest</b>
Conduct a search	<b>Search</b>
Is applicable	<b>Applies</b>



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## 2) Rewrite this section:

While pretrial motions were being litigated in the trial court, the discovery was made by investigators that certain documents were being withheld by the corporation. Plaintiffs made a request, and the trial court ordered, that disclosure be made immediately. The corporation made the argument that the documents were protected by the work-product privilege and that any exceptions were not applicable.



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## Possible Rewrite:

During pretrial litigation [or before trial], investigators discovered that the corporation was withholding certain documents. Plaintiffs requested, and the trial court ordered, that the corporation disclose them immediately. The corporation argued that the work-product privilege protected the documents and that no exceptions applied.



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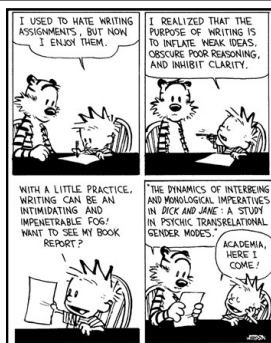
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### Example:

From the view of society, delays in disposition of violation of criminal laws create uncertainty regarding the reliability and efficiency of the criminal justice system. Victims and families of victims are left without a necessary ingredient for closure. Defendants are kept in a state of limbo about their future. In short, delay does not serve anyone's best interests.



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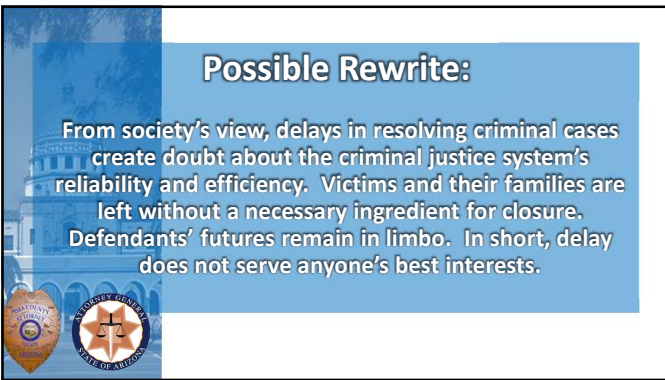
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### Possible Rewrite:

From society's view, delays in resolving criminal cases create doubt about the criminal justice system's reliability and efficiency. Victims and their families are left without a necessary ingredient for closure. Defendants' futures remain in limbo. In short, delay does not serve anyone's best interests.



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### 3) Rewrite this section:

The interests of a person may not always be implicated by a decision of another person to engage in a violation of the laws of the state. But a person is permitted by law to conduct an investigation of the alleged violation, as long as he is in compliance with state and federal law.



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### Possible Rewrite:

A person's decision to violate state law may not always implicate another person's interests. But law permits a person to investigate the alleged violation, as long as he complies with state and federal law.



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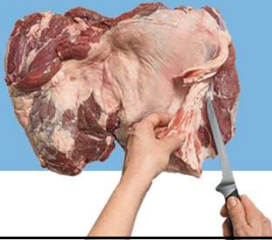
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### Trim the Fat



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### *Thekhov's Gun*



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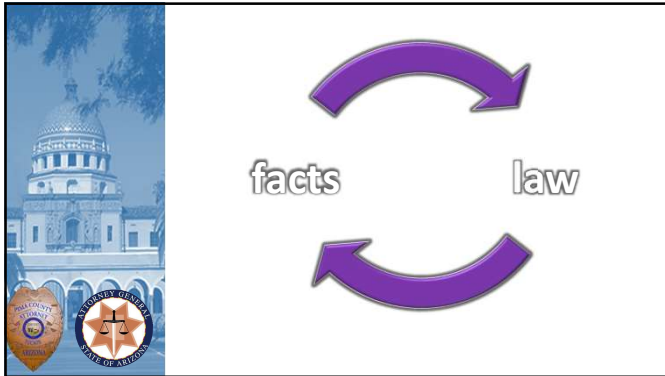
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### Look at your pleading

- What facts in your pleading are not necessary for the legal discussion?
- What legal statements in your pleading are not relevant, based on the facts?

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### Show, Don't Tell:

Avoiding Clearly / Obviously / Plainly

**Don't tell the court what is clear or obvious—persuade it with your arguments.**

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#### 4) Rewrite this section.

Because **merely** calling Appellant's spouse to the witness stand **clearly** did not constitute an improper comment on Appellant's invocation of the anti-marital fact privilege or a deprivation of his right to invoke the privilege, there **undeniably** was no error. As a result, the trial court **obviously** did not abuse its discretion in denying Appellant's two **baseless** motions for mistrial.



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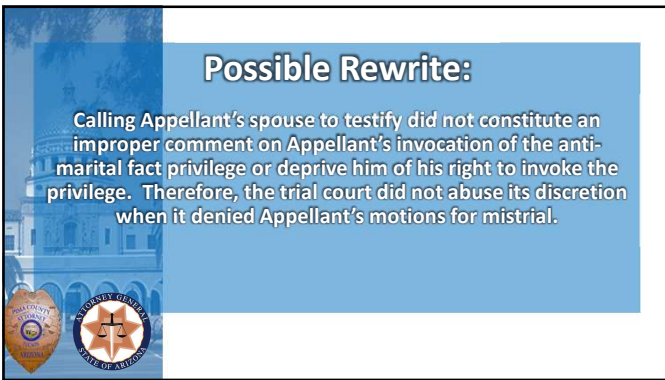
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#### Possible Rewrite:

Calling Appellant's spouse to testify did not constitute an improper comment on Appellant's invocation of the anti-marital fact privilege or deprive him of his right to invoke the privilege. Therefore, the trial court did not abuse its discretion when it denied Appellant's motions for mistrial.



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#### Words to watch out for

Clear/Clearly  
Undeniable/Undeniably  
It is plain/Plainly

Obvious/Obviously  
Undoubtedly  
Patently



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## Show, don't tell: Earning conclusions

Earn your conclusions by showing the reader why they are true instead of telling the reader what to think.



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- Don't say something is untrue, show why it is, and let the reader reach that conclusion.
- Don't call an argument absurd, show why it is.
- Don't say a certain result would be unfair, explain why it would be.



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## Example:

Appellee's interpretation of the statute is **absurd** because the number of offenses that have occurred depends on the victim's conduct rather than the defendant's.



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### Possible Rewrite:

Under Appellee's interpretation, whether a defendant committed multiple offenses turns on the victim's conduct, not the defendant's.

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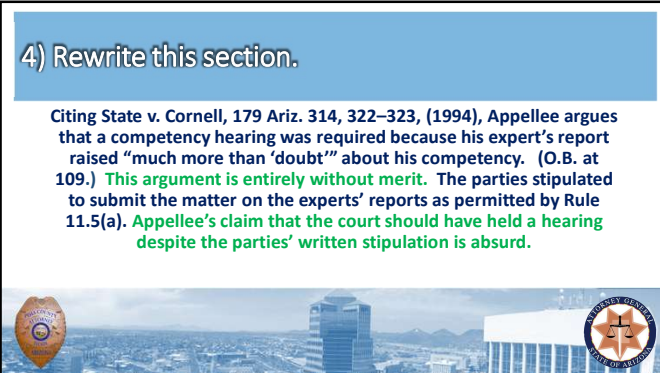
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### 4) Rewrite this section.

Citing *State v. Cornell*, 179 Ariz. 314, 322–323, (1994), Appellee argues that a competency hearing was required because his expert's report raised "much more than 'doubt'" about his competency. (O.B. at 109.) This argument is entirely without merit. The parties stipulated to submit the matter on the experts' reports as permitted by Rule 11.5(a). Appellee's claim that the court should have held a hearing despite the parties' written stipulation is absurd.

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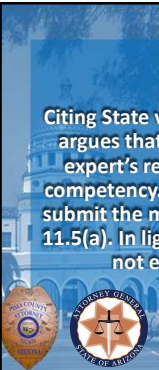
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### Possible Rewrite:

Citing *State v. Cornell*, 179 Ariz. 314, 322–323, (1994), Appellee argues that a competency hearing was required because his expert's report raised "much more than 'doubt'" about his competency. (O.B. at 109.) However, the parties stipulated to submit the matter on the experts' reports as permitted by Rule 11.5(a). In light of the parties' written stipulation, the court did not err by failing to hold an evidentiary hearing.

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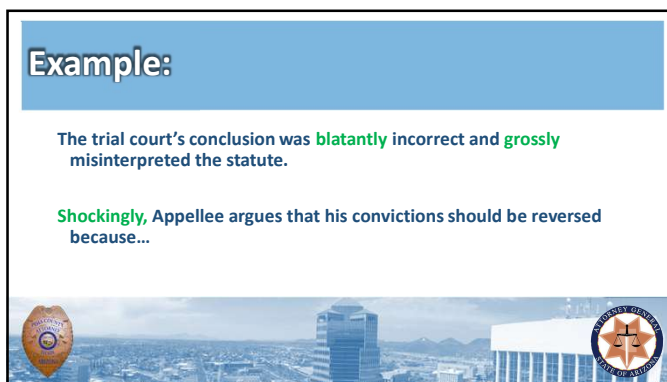
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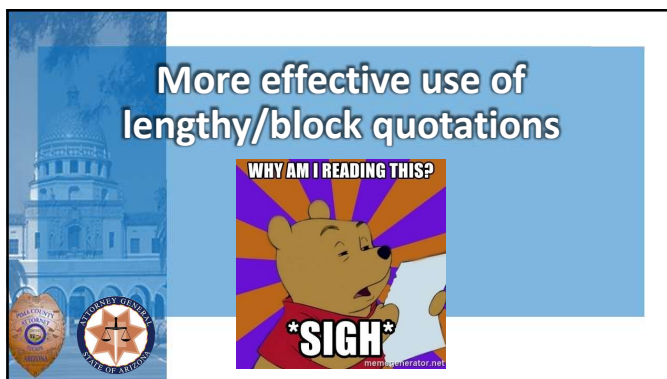
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## Use a lead-in that tells the reader what the quote is doing:

1. More likely the reader will actually read the quote;
2. Enhances your credibility;
3. Forces you to think about why you're quoting and may lead to you trimming the quote to be shorter and more pointed; and
4. Your brief makes sense even if the reader skips over the quote.



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## Example:

In *Miranda*, the Court held as follows:

When an individual is in custody on probable cause, the police may, of course, seek out evidence in the field to be used at trial against him. Such investigation may include inquiry of persons not under restraint. General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding. It is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement. In such situations the compelling atmosphere inherent in the process of in-custody interrogation is not necessarily present.

384 U.S. at 477-78.



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## Possible Rewrite:

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384 U.S. at 477-78.



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## Example:

In *State v. Hughes*, the Court stated:

At the outset, we need to clarify Arizona's position regarding the cumulative error doctrine in criminal cases. Our general rule has been stated several times over the years, and was recently stated in *State v. Dickens*, 187 Ariz. 1, 21, 926 P.2d 468, 488 (1996), as follows: "[T]his court does not recognize the so-called cumulative error doctrine." See also *State v. Roscoe*, 184 Ariz. 454, 497, 910 P.2d 635, 648 (1996); *State v. White*, 168 Ariz. 500, 508, 815 P.2d 869, 877 (1991). This lack of recognition is based on the theory that "something that is not prejudicial error in and of itself does not become such error when coupled with something else that is not prejudicial error." *Roscoe*, 184 Ariz. at 497, 910 P.2d at 648....

We reiterate the general rule that several non-errors and harmless errors cannot add up to one reversible error. We also clarify the fact that this general rule does not apply when the court is evaluating a claim that prosecutorial misconduct deprived defendant of a fair trial.

193 Ariz. 72, 78-79 ¶ 25 (1998).



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## Possible Rewrite:

The Arizona Supreme Court has repeatedly stated that, outside the context of prosecutorial misconduct claims, it "does not recognize the so-called cumulative error doctrine." *State v. Hughes*, 193 Ariz. 72, 78-79, ¶ 25 (1998) (quoting *State v. Dickens*, 187 Ariz. 1, 21 (1996)). The Court explained that "several non-errors and harmless errors cannot add up to one reversible error." *Id.*



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## Example:

A.R.S. § 13-4433(D) states:

If the victim consents to an interview, the prosecutor's office shall inform the defendant, the defendant's attorney or an agent of the defendant of the time and place the victim has selected for the interview. If the victim wishes to impose other conditions on the interview, the prosecutor's office shall inform the defendant, the defendant's attorney or an agent of the defendant of the conditions. The victim has the right to terminate the interview at any time or to refuse to answer any question during the interview.



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**Possible Rewrite:**

If a victim consents to an interview by the defendant, Arizona law permits the victim to select the time and place, impose conditions on the interview, terminate the interview at any time, or refuse to answer any question. A.R.S. § 13-4433(D).



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**6) Write a lead-in for this quotation**

The Arizona Supreme Court has stated that:

Arizona Rule of Evidence 404(b) provides that evidence of other acts is admissible to show "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." To introduce such evidence, a proper purpose must be shown under Rule 404(b), it must be relevant under Rule 402, the probative value of the evidence must not be substantially outweighed by its potential prejudicial effect under Rule 403, and the court must give a proper limiting instruction if requested under Rule 105. *State v. Hulsey*, 243 Ariz. 367, 381-82 ¶ 45 (2018); see also *State v. Mott*, 187 Ariz. 536, 545 (1997).

*State v. Acuna-Valenzuela*, 245 Ariz. 197, 207, ¶ 12 (2018).



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**Possible Rewrite:**

**The Arizona Supreme Court has explained the requirements for admitting other act evidence under Rule 404(b):**

Arizona Rule of Evidence 404(b) provides that evidence of other acts is admissible to show "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." To introduce such evidence, a proper purpose must be shown under Rule 404(b), it must be relevant under Rule 402, the probative value of the evidence must not be substantially outweighed by its potential prejudicial effect under Rule 403, and the court must give a proper limiting instruction if requested under Rule 105. *State v. Hulsey*, 243 Ariz. 367, 381-82 ¶ 45 (2018); see also *State v. Mott*, 187 Ariz. 536, 545 (1997).

*State v. Acuna-Valenzuela*, 245 Ariz. 197, 207, ¶ 12 (2018).



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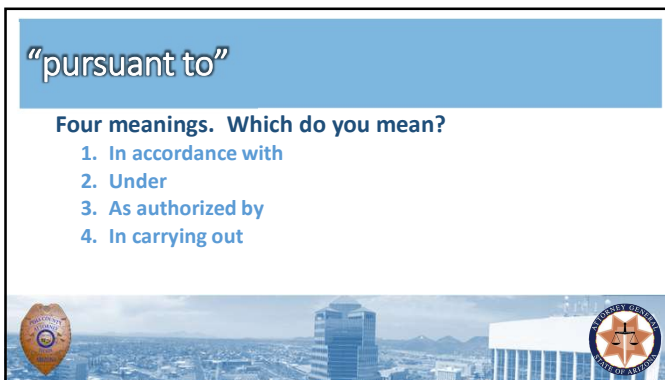
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**"that" bigotry**

**Example:**  
 Arizona case law has established the three subsections of § 13-1203(A) "are not simply variants of a single, unified offense; they are different crimes."

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